IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8506 OF 2004

Chhabanrao Damodar Shirke (Gurav) .. Petitioner.
Vs.
Shivajirao Ganpat Naik & Anr. .. Respondents.

Mr.G.S.Godbole for the petitioner.

CORAM : D.B.BHOSALE, J.

DATED : 3RD NOVEMBER, 2004

P.C.:

. Heard Mr.Godbole, learned counsel for the petitioner.

2. By this writ petition, the petitioner has challenged the order dated 13.8.2004 by which the court has issued witness summons to defendant no.1 to give evidence in the case. Mr.Godbole, learned counsel for the petitioner assailed the order mainly on the ground that the the court was wrong in exercising the powers under Rule 14 Order 16 at the stage of final arguments. In this case, after the parties led evidence and the arguments were being advanced the court passed the impugned order. In the course of arguments the court found that the evidence of defendant no.1 is necessary. Defendant

No.1 was not examined by either of the parties in the suit. The court has, therefore, exercised the powers under Rule 14 Order 16. Merely because the court has exercised the powers at the stage of final arguments it cannot be said that it was not justified in issuing witness summons to defendant no.1 as court witness. The provisions of Rule 14 Order 16 do not fetter the court from exercising the powers at any stage of the proceedings. In my opinion, the court below has rightly exercised its discretion for the reasons recorded in the impugned order. No case for exercising the supervisory jurisdiction under Article 227 of the Constitution of India is made out by the petitioner. The writ petition, therefore, fails and is dismissed as such.

(D.B.Bhosale, J.)